

Remarks/Arguments:

This is in response to the Office Communication of January 3, 2007. In the Office Communication, the application is restricted to Group I, including claims 1-10, Group II, including claims 11-12, and Group III, including claim 13. In response, the Applicants provisionally elect the invention of Group I, including claims 1-10, with traverse.

The office communication states that Groups I, II and III are distinct. Specifically, the Examiner states that the inventions of Groups I and II are related as product and process of use, and that the invention of Group III is unrelated to I and II and is directed to a mode switching, such that each have acquired a separate status in the Patent Office classification system.

The Examiner states that the mechanical structures of claims 1 and 5 are not necessary structures of claim 11. However, the Examiner fails to point out an example of another materially different product which can practice the process, and fails to point out an example of another material different process which can be practiced by the product. Such an example is required (see MPEP 806.05(h), Examiner Note (2)). The Applicants are then allowed to challenge the alternative use.

In the inventions of Groups I and II, both product and process recite common subject matter of a communication device and method of use which is directed by a detected arrangement of housing and/or battery compartment components. Accordingly, the

Applicants believe at a minimum, that the inventions of Groups I and II are not independent or distinct inventions.

In the invention of Group III, the Examiner states that the process of the invention of Group III is unrelated to the inventions of Groups I and II. To show the inventions are independent, the Examiner must show that the inventions are unconnected in design, operation and effect (see MPEP 806.06). However, in this case, the invention of Group III is connected to one or more of the inventions of Groups I and II by design, operation and effect. That is, the process of the invention of Group III recites subject matter for the discontinuing of camera operations when alternate operations are detected, as recited in claim 11 of Group II. Accordingly, the inventions of Groups II and III are connected by design, operation and effect.

For these reasons, the Applicants believe that the inventions of Groups I, II and III are not independent or distinct inventions, and that the restriction requirement should be withdrawn.

Furthermore, due to the significant degree of common subject matter in Groups I, II and III, the Applicants believe that it will not be a serious burden on the Examiner to search and examine all of the claims. Under MPEP §803, "if the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to independent or distinct inventions". Accordingly, the

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Applicants further believe that the restriction requirement should be withdrawn in view of the common subject matter in the claims.

Should the Examiner have any questions or require further information, he is invited to contact the undersigned attorney at the local telephone number indicated below.

Respectfully submitted,

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